

AMENDED IN ASSEMBLY AUGUST 2, 2010

AMENDED IN ASSEMBLY JUNE 10, 2010

AMENDED IN SENATE MARCH 23, 2010

SENATE BILL

No. 1456

Introduced by Senator Simitian

February 19, 2010

An act to amend, repeal, and add Section 66032 of the Government Code, to amend, repeal, and add Sections 21094, 21167.4, 21167.8, and 21177 of, and to add and repeal Sections 21167.9 and 21169.10 of, the Public Resources Code, relating to environmental quality, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1456, as amended, Simitian. Environmental quality: cumulative effects and mediation.

(1) The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect.

CEQA allows a lead agency to use a tiered environmental impact report when a prior environmental impact report has been prepared and certified for a program, plan, policy, or ordinance and a later project meets certain requirements. Existing law provides that the report on the later project is not required to examine those effects that the lead agency determines were, among other things, examined at a sufficient level of detail in the prior environmental impact report.

This bill ~~would~~, until January 1, ~~2015~~ 2016, *would* provide that if a lead agency determines that a cumulative effect has been adequately addressed in a prior environmental impact report, in accordance with a specified procedure, that cumulative effect is not required to be examined in a later environmental impact report, mitigated negative declaration, or negative declaration.

(2) CEQA imposes requirements for an attempted settlement upon a public agency that has been served a petition or complaint for noncompliance with CEQA. CEQA provides that the settlement meeting is intended to be conducted concurrently with any judicial proceedings.

Existing law also provides that an action brought in a superior court relating to certain subjects, including an act or decision of a public agency made pursuant to CEQA, may be subject to a mediation proceeding.

Existing law specifies procedures for bringing an action under CEQA for noncompliance with that act. An organization formed after the approval of a project is allowed to maintain an action for noncompliance if a member of that organization has presented the alleged grounds for noncompliance to the public agency in a specified manner.

This bill ~~would~~, until January 1, ~~2015~~ 2016, *would* provide that a mediation proceeding also is intended to be conducted concurrently with any judicial proceedings.

This bill, *until January 1, 2016*, ~~would require~~ *authorize* a person wishing to bring an action or proceeding pursuant to CEQA to file with the lead agency and the real party in interest a notice requesting mediation within 5 business days from the date of the filing of a notice of determination occurring on or after July 1, 2011. The bill would provide that the notice for mediation is deemed to be denied if the lead agency fails to respond within ~~3~~ 5 business days of receiving the request for mediation. The bill would authorize a court to impose a penalty on a party making a frivolous claim in the course of an action brought under CEQA on or before ~~January 1~~ December 31, 2015.

This bill ~~would, until December 31, 2014, until January 1, 2016,~~ additionally *would* require a member of that organization to have objected to the approval of the project orally or in writing.

This bill ~~would~~, until January 1, ~~2015~~ 2016, also *would* authorize the Attorney General to file a motion with the court seeking an expedited schedule for resolution of an action or proceeding alleging noncompliance.

This bill would make conforming changes.

(3) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 66032 of the Government Code is
2 amended to read:

3 66032. (a) Except as provided in subdivision (c) of Section
4 21167.8 of the Public Resources Code, all time limits with respect
5 to an action shall be tolled while the mediator conducts the
6 mediation, pursuant to this chapter.

7 (b) Mediations conducted by a mediator pursuant to this chapter
8 that involve less than a quorum of a legislative body or a state
9 body shall not be considered meetings of a legislative body
10 pursuant to the Ralph M. Brown Act (Chapter 9 (commencing
11 with Section 54950) of Part 1 of Division 2 of Title 5), nor shall
12 they be considered meetings of a state body pursuant to the
13 Bagley-Keene Open Meeting Act (Article 9 (commencing with
14 Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2).

15 (c) Any action taken regarding mediation conducted pursuant
16 to this chapter shall be taken in accordance with the provisions of
17 current law.

18 (d) Ninety days after the commencement of the mediation, and
19 every 90 days thereafter, the action shall be reactivated unless the
20 parties to the action do either of the following:

21 (1) Arrive at a settlement and implement it in accordance with
22 the provisions of current law.

23 (2) Agree by written stipulation to extend the mediation for
24 another 90-day period.

25 (e) Section 703.5 and Chapter 2 (commencing with Section
26 1115) of Division 9 of the Evidence Code apply to any mediation
27 conducted pursuant to this chapter.

28 (f) This section shall remain in effect only until January 1, ~~2015~~
29 ~~2016~~, and as of that date is repealed, unless a later enacted statute,
30 that is enacted before January 1, ~~2015~~ ~~2016~~, deletes or extends
31 that date.

32 SEC. 2. Section 66032 is added to the Government Code, to
33 read:

1 66032. (a) Notwithstanding any provision of law to the
2 contrary, all time limits with respect to an action shall be tolled
3 while the mediator conducts the mediation, pursuant to this chapter.

4 (b) Mediations conducted by a mediator pursuant to this chapter
5 that involve less than a quorum of a legislative body or a state
6 body shall not be considered meetings of a legislative body
7 pursuant to the Ralph M. Brown Act (Chapter 9 (commencing
8 with Section 54950) of Part 1 of Division 2 of Title 5), nor shall
9 they be considered meetings of a state body pursuant to the
10 Bagley-Keene Open Meeting Act (Article 9 (commencing with
11 Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2).

12 (c) Any action taken regarding mediation conducted pursuant
13 to this chapter shall be taken in accordance with the provisions of
14 current law.

15 (d) Ninety days after the commencement of the mediation, and
16 every 90 days thereafter, the action shall be reactivated unless the
17 parties to the action do either of the following:

18 (1) Arrive at a settlement and implement it in accordance with
19 the provisions of current law.

20 (2) Agree by written stipulation to extend the mediation for
21 another 90-day period.

22 (e) Section 703.5 and Chapter 2 (commencing with Section
23 1115) of Division 9 of the Evidence Code apply to any mediation
24 conducted pursuant to this chapter.

25 (f) This section shall become operative on January 1, ~~2015~~ 2016.

26 SEC. 3. Section 21094 of the Public Resources Code is
27 amended to read:

28 21094. (a) Where a prior environmental impact report has
29 been prepared and certified for a program, plan, policy, or
30 ordinance, the lead agency for a later project that meets the
31 requirements of this section shall examine significant effects of
32 the later project upon the environment by using a tiered
33 environmental impact report, except that the report on the later
34 project is not required to examine those effects that the lead agency
35 determines were either of the following:

36 (1) Mitigated or avoided pursuant to paragraph (1) of subdivision
37 (a) of Section 21081 as a result of the prior environmental impact
38 report.

39 (2) Examined at a sufficient level of detail in the prior
40 environmental impact report to enable those effects to be mitigated

1 or avoided by site-specific revisions, the imposition of conditions,
2 or by other means in connection with the approval of the later
3 project.

4 (b) This section applies only to a later project that the lead
5 agency determines is all of the following:

6 (1) Consistent with the program, plan, policy, or ordinance for
7 which an environmental impact report has been prepared and
8 certified.

9 (2) Consistent with applicable local land use plans and zoning
10 of the city, county, or city and county in which the later project
11 would be located.

12 (3) Not subject to Section 21166.

13 (c) For purposes of compliance with this section, an initial study
14 shall be prepared to assist the lead agency in making the
15 determinations required by this section. The initial study shall
16 analyze whether the later project may cause significant effects on
17 the environment that were not examined in the prior environmental
18 impact report.

19 (d) All public agencies that propose to carry out or approve the
20 later project may utilize the prior environmental impact report and
21 the environmental impact report on the later project to fulfill the
22 requirements of Section 21081.

23 (e) (1) If a lead agency determines pursuant to this subdivision
24 that a cumulative effect has been adequately addressed in a prior
25 environmental impact report, that cumulative effect is not required
26 to be examined in a later environmental impact report, mitigated
27 negative declaration, or negative declaration for purposes of
28 paragraph (2) of subdivision (a).

29 (2) When assessing whether a cumulative effect has been
30 adequately addressed in a prior environmental impact report, the
31 lead agency shall consider whether the incremental effects of the
32 project are cumulatively considerable.

33 (3) (A) For purposes of paragraph (2), if the lead agency
34 determines the incremental effects of the project are significant
35 when viewed in connection with the effects of past, present, and
36 probable future projects, the incremental effects of a project are
37 cumulatively considerable.

38 (B) If the lead agency determines incremental effects of a project
39 are cumulatively considerable, the later environmental impact

1 report, mitigated negative declaration, or negative declaration shall
2 examine those effects.

3 (4) If the lead agency makes one of the following
4 determinations, the cumulative effects of a project are adequately
5 addressed for purposes of paragraph (2):

6 (A) The cumulative effect has been mitigated or avoided as a
7 result of the prior environmental impact report and findings adopted
8 pursuant to paragraph (1) of subdivision (a) of Section 21081 as
9 a result of the prior environmental impact report.

10 (B) The cumulative effect has been examined at a sufficient
11 level of detail in the prior environmental impact report to enable
12 the effect to be mitigated or avoided by site-specific revisions, the
13 imposition of conditions, or by other means in connection with
14 the approval of the later project.

15 (f) When tiering is used pursuant to this section, an
16 environmental impact report prepared for a later project shall refer
17 to the prior environmental impact report and state where a copy
18 of the prior environmental impact report may be examined.

19 (g) This section shall remain in effect only until January 1, ~~2015~~
20 ~~2016~~, and as of that date is repealed, unless a later enacted statute,
21 that is enacted before January 1, ~~2015~~ ~~2016~~, deletes or extends
22 that date.

23 SEC. 4. Section 21094 is added to the Public Resources Code,
24 to read:

25 21094. (a) Where a prior environmental impact report has
26 been prepared and certified for a program, plan, policy, or
27 ordinance, the lead agency for a later project that meets the
28 requirements of this section shall examine significant effects of
29 the later project upon the environment by using a tiered
30 environmental impact report, except that the report on the later
31 project is not required to examine those effects that the lead agency
32 determines were either of the following:

33 (1) Mitigated or avoided pursuant to paragraph (1) of subdivision
34 (a) of Section 21081 as a result of the prior environmental impact
35 report.

36 (2) Examined at a sufficient level of detail in the prior
37 environmental impact report to enable those effects to be mitigated
38 or avoided by site-specific revisions, the imposition of conditions,
39 or by other means in connection with the approval of the later
40 project.

1 (b) This section applies only to a later project that the lead
2 agency determines is all of the following:

3 (1) Consistent with the program, plan, policy, or ordinance for
4 which an environmental impact report has been prepared and
5 certified.

6 (2) Consistent with applicable local land use plans and zoning
7 of the city, county, or city and county in which the later project
8 would be located.

9 (3) Not subject to Section 21166.

10 (c) For purposes of compliance with this section, an initial study
11 shall be prepared to assist the lead agency in making the
12 determinations required by this section. The initial study shall
13 analyze whether the later project may cause significant effects on
14 the environment that were not examined in the prior environmental
15 impact report.

16 (d) All public agencies that propose to carry out or approve the
17 later project may utilize the prior environmental impact report and
18 the environmental impact report on the later project to fulfill the
19 requirements of Section 21081.

20 (e) When tiering is used pursuant to this section, an
21 environmental impact report prepared for a later project shall refer
22 to the prior environmental impact report and state where a copy
23 of the prior environmental impact report may be examined.

24 (f) This section shall become operative on January 1, ~~2015~~ 2016.

25 SEC. 5. Section 21167.4 of the Public Resources Code is
26 amended to read:

27 21167.4. (a) In any action or proceeding alleging
28 noncompliance with this division, the petitioner shall request a
29 hearing within 90 days from the date of filing the petition or shall
30 be subject to dismissal on the court's own motion or on the motion
31 of any party interested in the action or proceeding.

32 (b) The petitioner shall serve a notice of the request for a hearing
33 on all parties at the time that the petitioner files the request for a
34 hearing.

35 (c) Upon the filing of a request by the petitioner for a hearing
36 and upon application by any party, the court shall establish a
37 briefing schedule and a hearing date. In the absence of good cause,
38 briefing shall be completed within 90 days from the date that the
39 request for a hearing is filed, and the hearing, to the extent feasible,
40 shall be held within 30 days thereafter. Good cause may include,

1 but shall not be limited to, the conduct of discovery, determination
2 of the completeness of the record of proceedings, the complexity
3 of the issues, and the length of the record of proceedings and the
4 timeliness of its production. The parties may stipulate to a briefing
5 schedule or hearing date that differs from the schedule set forth in
6 this subdivision if the stipulation is approved by the court.

7 (d) In an action or proceeding alleging noncompliance with this
8 division, the Attorney General may file a motion with the court
9 seeking an expedited schedule for resolution of the case upon the
10 grounds that it would be in the public interest to do so.

11 (e) This section shall remain in effect only until January 1, ~~2015~~
12 ~~2016~~, and as of that date is repealed, unless a later enacted statute,
13 that is enacted before January 1, ~~2015~~ ~~2016~~, deletes or extends
14 that date.

15 SEC. 6. Section 21167.4 is added to the Public Resources Code,
16 to read:

17 21167.4. (a) In any action or proceeding alleging
18 noncompliance with this division, the petitioner shall request a
19 hearing within 90 days from the date of filing the petition or shall
20 be subject to dismissal on the court's own motion or on the motion
21 of any party interested in the action or proceeding.

22 (b) The petitioner shall serve a notice of the request for a hearing
23 on all parties at the time that the petitioner files the request for a
24 hearing.

25 (c) Upon the filing of a request by the petitioner for a hearing
26 and upon application by any party, the court shall establish a
27 briefing schedule and a hearing date. In the absence of good cause,
28 briefing shall be completed within 90 days from the date that the
29 request for a hearing is filed, and the hearing, to the extent feasible,
30 shall be held within 30 days thereafter. Good cause may include,
31 but shall not be limited to, the conduct of discovery, determination
32 of the completeness of the record of proceedings, the complexity
33 of the issues, and the length of the record of proceedings and the
34 timeliness of its production. The parties may stipulate to a briefing
35 schedule or hearing date that differs from the schedule set forth in
36 this subdivision if the stipulation is approved by the court.

37 (d) This section shall become operative on January 1, ~~2015~~
38 ~~2016~~.

39 SEC. 7. Section 21167.8 of the Public Resources Code is
40 amended to read:

1 21167.8. (a) Not later than 20 days from the date of service
2 upon a public agency of a petition or complaint brought pursuant
3 to Section 21167, the public agency shall file with the court a
4 notice setting forth the time and place at which all parties shall
5 meet and attempt to settle the litigation. The meeting shall be
6 scheduled and held not later than 45 days from the date of service
7 of the petition or complaint upon the public agency. The notice of
8 the settlement meeting shall be served by mail upon the counsel
9 for each party. If the public agency does not know the identity of
10 counsel for a party, the notice shall be served by mail upon the
11 party for whom counsel is not known.

12 (b) At the time and place specified in the notice filed with the
13 court, the parties shall meet and confer regarding anticipated issues
14 to be raised in the litigation and shall attempt in good faith to settle
15 the litigation and the dispute that forms the basis of the litigation.
16 The settlement meeting discussions shall be comprehensive in
17 nature and shall focus on the legal issues raised by the parties
18 concerning the project that is the subject of the litigation.

19 (c) The settlement meeting may be continued from time to time
20 without postponing or otherwise delaying other applicable time
21 limits in the litigation. The settlement meeting, or a mediation
22 proceeding that is conducted pursuant to Chapter 9.3 (commencing
23 with Section 66030) of Division 1 of Title 7 of the Government
24 Code, is intended to be conducted concurrently with any judicial
25 proceedings.

26 (d) If the litigation is not settled, the court, in its discretion, may,
27 or at the request of a party, shall, schedule a further settlement
28 conference before a judge of the superior court. If the petition or
29 complaint is later heard on its merits, the judge hearing the matter
30 shall not be the same judge conducting the settlement conference,
31 except in counties that have only one judge of the superior court.

32 (e) The failure of a party, who was notified pursuant to
33 subdivision (a), to participate in the litigation settlement process,
34 without good cause, may result in an imposition of sanctions by
35 the court.

36 (f) Not later than 30 days from the date that notice of
37 certification of the record of proceedings was filed and served in
38 accordance with Section 21167.6, the petitioner or plaintiff shall
39 file and serve on all other parties a statement of issues that the
40 petitioner or plaintiff intends to raise in a brief or at a hearing or

1 trial. Not later than 10 days from the date on which the respondent
2 or real party in interest has been served with the statement of issues
3 from the petitioner or plaintiff, each respondent and real party in
4 interest shall file and serve on all other parties a statement of issues
5 which that party intends to raise in a brief or at a hearing or trial.

6 (g) This section shall remain in effect only until January 1, ~~2015~~
7 2016, and as of that date is repealed, unless a later enacted statute,
8 that is enacted before January 1, ~~2015~~ 2016, deletes or extends
9 that date.

10 SEC. 8. Section 21167.8 is added to the Public Resources Code,
11 to read:

12 21167.8. (a) Not later than 20 days from the date of service
13 upon a public agency of a petition or complaint brought pursuant
14 to Section 21167, the public agency shall file with the court a
15 notice setting forth the time and place at which all parties shall
16 meet and attempt to settle the litigation. The meeting shall be
17 scheduled and held not later than 45 days from the date of service
18 of the petition or complaint upon the public agency. The notice of
19 the settlement meeting shall be served by mail upon the counsel
20 for each party. If the public agency does not know the identity of
21 counsel for any party, the notice shall be served by mail upon the
22 party for whom counsel is not known.

23 (b) At the time and place specified in the notice filed with the
24 court, the parties shall meet and confer regarding anticipated issues
25 to be raised in the litigation and shall attempt in good faith to settle
26 the litigation and the dispute which forms the basis of the litigation.
27 The settlement meeting discussions shall be comprehensive in
28 nature and shall focus on the legal issues raised by the parties
29 concerning the project that is the subject of the litigation.

30 (c) The settlement meeting may be continued from time to time
31 without postponing or otherwise delaying other applicable time
32 limits in the litigation. The settlement meeting is intended to be
33 conducted concurrently with any judicial proceedings.

34 (d) If the litigation is not settled, the court, in its discretion, may,
35 or at the request of any party, shall, schedule a further settlement
36 conference before a judge of the superior court. If the petition or
37 complaint is later heard on its merits, the judge hearing the matter
38 shall not be the same judge conducting the settlement conference,
39 except in counties that have only one judge of the superior court.

1 (e) The failure of any party, who was notified pursuant to
2 subdivision (a), to participate in the litigation settlement process,
3 without good cause, may result in an imposition of sanctions by
4 the court.

5 (f) Not later than 30 days from the date that notice of
6 certification of the record of proceedings was filed and served in
7 accordance with Section 21167.6, the petitioner or plaintiff shall
8 file and serve on all other parties a statement of issues which the
9 petitioner or plaintiff intends to raise in any brief or at any hearing
10 or trial. Not later than 10 days from the date on which the
11 respondent or real party in interest has been served with the
12 statement of issues from the petitioner or plaintiff, each respondent
13 and real party in interest shall file and serve on all other parties a
14 statement of issues which that party intends to raise in any brief
15 or at any hearing or trial.

16 (g) This section shall become operative on January 1, ~~2015~~
17 ~~2016~~.

18 SEC. 9. Section 21167.9 is added to the Public Resources Code,
19 to read:

20 21167.9. (a) Within five business days of the filing of a notice
21 required by subdivision (a) or (b) of Section 21108, or subdivision
22 (a) or (b) of Section 21152 by the lead agency, a person wishing
23 to bring an action or a proceeding pursuant to Section 21167,
24 21168, or 21168.5 ~~shall~~ *may* file with the lead agency and the real
25 party in interest a notice requesting mediation.

26 (b) Within ~~three~~ *five* business days of the receipt of the notice
27 requesting mediation, a lead agency may respond to the person by
28 accepting the request for mediation and proceed with mediation.

29 (c) The request for mediation is deemed denied if the lead
30 agency fails to respond within ~~three~~ *five* business days of receiving
31 the request for mediation.

32 (d) The limitation periods provided pursuant to this chapter shall
33 be tolled until the completion of the mediation conducted pursuant
34 to this section.

35 (e) This section shall apply to notices that are filed on or after
36 July 1, 2011.

37 (f) This section does not apply in cases where the lead agency
38 has not filed the notice required by subdivision (a) or (b) of Section
39 21108, or subdivision (a) or (b) of Section 21152.

1 (g) (1) ~~This~~ *Except as set forth in paragraph (2), this* section
2 shall remain in effect only until January 1, ~~2015~~ 2016, and as of
3 that date is repealed, unless a later enacted statute, that is enacted
4 before January 1, ~~2015~~ 2016, deletes or extends that date.

5 (2) Notwithstanding paragraph (1), the tolling of the limitation
6 periods provided pursuant to subdivision (d) shall apply if a
7 mediation conducted pursuant to this section is completed on or
8 after January 1, ~~2015~~ 2016.

9 SEC. 10. Section 21169.10 is added to the Public Resources
10 Code, to read:

11 21169.10. (a) After a court has issued a decision on the merits,
12 a party may file a motion requesting the court to impose a penalty
13 for a frivolous claim made in the course of an action brought
14 pursuant to this division.

15 (b) Upon a hearing on the motion, a court may impose a penalty
16 on any party making a frivolous claim in an amount up to ten
17 thousand dollars (\$10,000).

18 (c) For purposes of this section, “frivolous” means totally and
19 completely without merit.

20 (d) (1) This section shall remain in effect only until January 1,
21 ~~2015~~ 2016, and as of that date is repealed, unless a later enacted
22 statute, that is enacted before January 1, ~~2015~~ 2016, deletes or
23 extends that date.

24 (2) Notwithstanding paragraph (1), the penalty provided pursuant
25 to this section shall apply to an action filed on or before December
26 31, ~~2014~~ 2015.

27 SEC. 11. Section 21177 of the Public Resources Code is
28 amended to read:

29 21177. (a) An action or proceeding shall not be brought
30 pursuant to Section 21167 unless the alleged grounds for
31 noncompliance with this division were presented to the public
32 agency orally or in writing by any person during the public
33 comment period provided by this division or prior to the close of
34 the public hearing on the project before the issuance of the notice
35 of determination.

36 (b) A person shall not maintain an action or proceeding unless
37 that person objected to the approval of the project orally or in
38 writing during the public comment period provided by this division
39 or prior to the close of the public hearing on the project before the

1 filing of the notice of determination pursuant to Sections 21108
2 and 21152.

3 (c) This section does not preclude any organization formed after
4 the approval of a project from maintaining an action pursuant to
5 Section 21167 if a member of that organization has complied with
6 subdivisions (a) and (b). *The grounds for noncompliance may have*
7 *been presented directly by the member or by the member agreeing*
8 *with or supporting the comments of another person.*

9 (d) This section does not apply to the Attorney General.

10 (e) This section does not apply to any alleged grounds for
11 noncompliance with this division for which there was no public
12 hearing or other opportunity for members of the public to raise
13 those objections orally or in writing prior to the approval of the
14 project, or if the public agency failed to give the notice required
15 by law.

16 (f) This section shall remain in effect only until January 1, ~~2015~~
17 *2016*, and as of that date is repealed, unless a later enacted statute,
18 that is enacted before January 1, ~~2015~~ *2016*, deletes or extends
19 that date.

20 SEC. 12. Section 21177 is added to the Public Resources Code,
21 to read:

22 21177. (a) An action or proceeding shall not be brought
23 pursuant to Section 21167 unless the alleged grounds for
24 noncompliance with this division were presented to the public
25 agency orally or in writing by any person during the public
26 comment period provided by this division or prior to the close of
27 the public hearing on the project before the issuance of the notice
28 of determination.

29 (b) A person shall not maintain an action or proceeding unless
30 that person objected to the approval of the project orally or in
31 writing during the public comment period provided by this division
32 or prior to the close of the public hearing on the project before the
33 filing of notice of determination pursuant to Sections 21108 and
34 21152.

35 (c) This section does not preclude any organization formed after
36 the approval of a project from maintaining an action pursuant to
37 Section 21167 if a member of that organization has complied with
38 subdivision (b).

39 (d) This section does not apply to the Attorney General.

1 (e) This section does not apply to any alleged grounds for
2 noncompliance with this division for which there was no public
3 hearing or other opportunity for members of the public to raise
4 those objections orally or in writing prior to the approval of the
5 project, or if the public agency failed to give the notice required
6 by law.

7 (f) This section shall become operative on January 1, ~~2015~~ 2016.

8 SEC. 13. This act is an urgency statute necessary for the
9 immediate preservation of the public peace, health, or safety within
10 the meaning of Article IV of the Constitution and shall go into
11 immediate effect. The facts constituting the necessity are:

12 In order to protect the environment and public health at the
13 earliest possible time, it is necessary for this act to take effect
14 immediately.